

# EXHIBIT “J”

3-6-93

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# Medical Examiner Calls Critics Liars

■ Erik Mitchell calls accusations by his top aides lies, insults and slander.

By JOHN O'BRIEN  
The Post-Standard

Onondaga County's embattled medical examiner fired back at his accusers Friday, saying their sensational allegations of unethical practices are false.

Dr. Erik Mitchell denied an accusation by his former employees that he ordered them to dice brains and other organs, then flush them down a toilet or flush sink at the morgue.

"I am not a mad scientist," he said. "I am involved in a type of work that is difficult, and where there is a great deal of misunderstanding and misinformation in the

population."

He denied accusations that he endangered people at the County Office Building by allowing highly volatile mercury to be stored there for the past year or two.

Mitchell is being investigated by the state Health Department's Office of Professional Medical Conduct, the state Department of Environmental Conservation, his own advisory board and the county attorney's office, based on complaints from three of his top assistants.

"I am tired of lies, insults and slander, and I will no longer tolerate it," Mitchell said at a news conference. Up until Friday, he had his attorney speak for him



NICHOLAS LISI/The Post-Standard

With District Attorney William Fitzpatrick at his side, Medical Examiner Erik Mitchell disputes allegations about his office.

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## Medical Examiner Says Rebellious Aides Have Ax to Grind

(MEDICAL, from Page A-1)  
each time new allegations were raised about his practices over the past five years.

Mitchell said that, when he became medical examiner in 1983, brains and other organs that were kept for examination were being diced by employees and flushed down a sanitary drain. He said he didn't know who ordered them to do so.

"I did not wish to continue this method of disposal and thus during my tenure we have switched to cremation," Mitchell said. But he said he couldn't recall when he halted the practice.

"I got rid of it — that was the standard procedure when I arrived," he said. "I had to discover it before I could abolish it, so I cannot say it did not happen in my tenure."

Thomas Jensen, Mitchell's morgue superintendent until 1991, disputed Mitchell's contention that the flushing was not done at his request.

"It was done repeatedly," Jensen said. "Myself and others, my employees, did the same thing at his order. It went right down into the sewer, and it wasn't just little bits of tissue. It was whole organs: hearts, livers, kidneys, brains, you name it. We obeyed orders, period."

Mitchell stopped the practice a couple of years ago, Jensen said.

Two other former employees, William Sullivan and Ed Wittann, also said Mitchell ordered organs to be cut up and flushed about once a month.

Mitchell's predecessor, Dr. Martin Hiffinger, could not be reached to say whether the practice was

"It went right down into the sewer, and it wasn't just little bits of tissue."

THOMAS JENSEN  
former morgue superintendent

used under him.

Mitchell didn't give a direct answer when he was asked whether he bragged about the brain flushing in 1990 to his toxicologist, William Sawyer. Sawyer said in his complaint to the state health department that Mitchell thought it was funny that the diced brains clogged the toilet once.

"I find something like that to be incongruous," Mitchell said. "Anybody faced with that will describe it with a sense of disbelief."

Mitchell said Sawyer and his assistant medical examiners, Dr. David Ragle and Dr. Humphrey Germaniuk, made the accusations against him because they had axes to grind.

Mitchell had the same explanation for the revolving door of employees who have left the office in recent years citing problems with him.

"I have had to work with people who don't like me for a long time," he said. "I am considered a demanding taskmaster."

Germaniuk cited reports of turmoil in the office dating back to 1987.

"There were problems before my arrival, there were problems while I've been here, and there will be problems when I'm gone," Germaniuk said Friday.

Mitchell suggested one of the

pathologists might be after his job.

"One of them has certainly given that impression, by outlining to the health department how he would run the office in my absence," Mitchell said. Ragle and Germaniuk both denied Friday that they were after Mitchell's job, or outlining to the health department how they'd do the job.

Standing behind Mitchell at the

news conference were several county officials and community leaders, including District Attorney William Fitzpatrick, who called Mitchell a brilliant pathologist.

Mitchell admitted he was aware that up to 100 pounds of liquid mercury has been stored in the county lab at the County Office Building for the past one or two years, in soda and Chlorox bottles

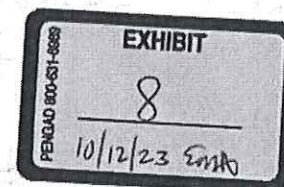
and glass jars.

Sawyer said the chemical posed a serious danger because of the possibility of a fire. A DEC investigator said this week the mercury does not pose a direct threat to the public. The county hired a contractor last week to dispose of it properly.

Mitchell denied ordering Sawyer to illegally dispose of hundreds of chemicals at the lab by mixing them

with medical waste. Mitchell's boss, Health Commissioner James Miller, said this week that Mitchell suggested to Sawyer that the chemicals be disposed of that way, but only if it was appropriate.

Mitchell admitted asking Sawyer to look into the possibility of trading 25 gallons of alcohol for a fax machine. He said he didn't realize it was against county policy.





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BYLINE: By Jim O'Hara Staff Writer

HEADLINE: MEDICAL EXAMINER DENIES HE ORDERED STAFF TO DICE BODY PARTS

TEXT:

Onondaga County Medical Examiner Erik Mitchell today dismissed as "lies, insults and slander" a series of allegations leveled against him by employees, including a complaint he had staff dice brains and other body parts to be flushed away.

"I am not a mad scientist," Mitchell said today.

In a statement prepared for a midmorning news conference, Mitchell defended his conduct and the integrity of the office. A number of supporters were on hand, including District Attorney William Fitzpatrick.

"I am tired of lies, insults and slander and I will no longer tolerate it," Mitchell said in his statement. "I have chosen to appear here today because of all the consternation and anguish these allegations create for all families who have had a loved one pass through my office and to defend our office's practices to insure these families of our commitment to quality."

Mitchell said his accusers - including assistant medical examiners David Ragle and Humphrey Germaniuk - are simply rehashing previously addressed complaints and adding a dose of "new baseless allegations."

"Continuous repetition is being used to replace substance," Mitchell charged.

The medical examiner addressed each of the complaints:

Mitchell denied allegations he has directed staff to dice brains and other body tissues to be flushed away. He said that is not the practice in his office, although it was when he became medical examiner in 1983.

"On my arrival in Onondaga County I found that final disposition of tissues no longer required for investigation was into the sanitary drain, something new to me, and the staff showed me a mechanical grinder which had been purchased for this purpose, but which had been unable to meet the task," Mitchell said. "The staff, at whose direction I do not know, had substituted hand dicing."

"I did not wish to continue this method of disposal and thus during my tenure we have switched to cremation," Mitchell said.

Mitchell denied allegations he had ordered toxic mercury to be stored illegally in the downtown County Office Building. He said the state Department of Environmental Conservation has determined such storage poses no threat to the environment or people in the building.

"I have in the past authorized the laboratory to accept chemicals from other county agencies and then directed my staff to dispose of these materials in an environmentally safe manner, which is how the mercury came to be stored here," Mitchell said.

He noted the lab staff has more expertise than the average county employee.

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Mitchell denied ever throwing a scalpel at an employee, but admitted hitting a staff member on one occasion.

"In trying to prevent a staff member from contaminating clean paperwork with body fluids I pushed him away but unfortunately, that caused him to drop a test tube which broke causing the contamination I was trying to prevent," he said.

Mitchell admitted he asked toxicologist William Sawyer to pursue trading alcohol from the medical examiner's office for a fax machine.

The idea was not pursued, he said, when he found that would violate a 1988 statute.

Mitchell admitted having traded unusable items in the past for equipment at a savings to taxpayers, including the trading of lead tests for an atomic absorption furnace. All that was done in accordance with county policies, he said.

Mitchell denied, however, asking Sawyer to illegally dispose of any toxic chemicals, as alleged.

Mitchell also said cost controls ordered by the county have required his office staff to perform duties others performed for them in the past, including the lifting of bodies.

"I am sorry the pathologists feel that such a cooperative effort is beneath their dignity and station in life," he said. "I harbor no such concepts, but the economics of the situation have not allowed me to employ extra staff."

Mitchell said other allegations that the staff is not adequately compensated for the workload and the risk of performing autopsies on people who have HIV, the virus that causes AIDS, are without merit.

"All staff are expected to care for patients regardless of diagnosis," he said.

Mitchell said the staff's complaints involve their dissatisfaction with his failure to block a contract calling for Onondaga County pathologists to handle autopsies of HIV-infected corpses from Oneida County.

It is to ensure safety, not to punish the assistant medical examiners, that he has introduced the method of performing those autopsies with scissors and not scalpels, he said.

"I showed both Dr. Ragle and Germaniuk a scissors autopsy and offered repeatedly to help train them in its execution," he said. "My offer fell on deaf ears but in spite of their unwillingness, they must continue scissors dissection just as I have been doing for the prevention of possible disease exposure. In the choice between convenience and safety, safety will prevail."

ILLUSTRATION: PHOTO

File photo

DR. ERIK MITCHELL

... "I am not a mad scientist"

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